

**TENNESSEE
COLLECTION SERVICE BOARD
MINUTES**

DATE: March 4, 2008

PLACE: Davy Crockett Tower – Room 160
500 James Robertson Parkway
Nashville, Tennessee

PRESENT: Board Members:
Bart Howard, Chairman
Elizabeth Trinkler
Worrick Robinson

PRESENT: Staff Members:
Donna Hancock, Interim Director
Terrance Bond, Staff Attorney
Judy Elmore, Administrative Assistant

GUESTS:

CALL TO ORDER:

Chairman Howard called the meeting to order and the following business was transacted:

Interim Director Hancock did a roll call of the Board members.

ROBERT'S RULES OF ORDER

Interim Director Hancock presented the Board members with a copy of the Robert's Rules of Order, she then ask the Board to adopt Robert's Rules of Order for conducting their meetings.

MOTION was made by Worrick Robinson and seconded by Elizabeth Trinkler to adopt Robert's Rules of Order for conducting the Collection Service Board meetings.

MOTION CARRIED

MINUTES:

MOTION was made by Elizabeth Trinkler and seconded by Worrick Robinson to *approve the minutes of January 8, 2008 meeting as written.*

MOTION CARRIED.

MOTION was made by Elizabeth Trinkler and seconded by Worrick Robinson to adopt the agenda as changed.

MOTION CARRIED

LEGAL REPORT---TERRANCE BOND, STAFF ATTORNEY**DISCLAIMER**

This Board is in no way responsible for the legal report. The report is given to the Board by the Staff Attorney (Terrance Bond).

1. Case No. L-07-CSB-RBS-200708867-1

Complainant, a third party, states that he received a call from Respondent, who is a first party creditor, requesting that he deliver an "emergency" message to a debtor, who was his neighbor. Complainant further states that Respondent misled him as to its identity. Respondent states that emergency request was never made and that Complainant didn't object to the request to leave word when it was initially made.

Recommendation: Dismiss

Board: Concurs

2. Case No. L-07-CSB-RBS-200708896-1

Complainant states that Respondent, a first party creditor, misled him regarding a payoff balance on his account. Complainant states further that Respondent continued to dun him after he paid the quoted payoff amount.

Recommendation: Dismiss

Board: Concurs

3. Case No. L-07-CSB-RBS-200707752-1

Board originally voted at its January meeting to authorize a formal hearing against the Respondent with authority to settle by Consent Order of \$1,000 due to the Respondent's unlicensed activity in Tennessee. A Consent Order containing the Board's proposed terms and civil penalty was mailed to Respondent on January 9, 2008.

A short time thereafter, counsel for the Respondent provided a letter issued to Respondent dated August 8, 2003 wherein the Administrative Director for the Board at the time had advised Respondent that they would be exempt from the Tennessee licensing statute.

Recommendation: Close with a letter of instruction advising that the exemption letter is no longer valid and that licensure will be required for any future collection activity within the State of Tennessee.

Board: Concurs

4. Case No. L-07-CSB-RBS-200705904-1

Complainant states he received misleading correspondence from Respondent, wherein several addresses appeared on the correspondence, allegedly making it confusing to determine where to send notice of a dispute. Language in the actual notice clearly states that the debtor should send "correspondence, other than payments", to a definite address in a specified city and state.

Recommendation: Dismiss

Board: Concurs

5. Case No. L-07-CSB-RBS-200706195-1

Complainant states that he received two harassing phone calls from Respondent. In the first, Complainant alleges that he was told that his wife would pay an outstanding bill, "or else". Further, Complainant states he made a verbal request that Respondent not contact him again, to which Respondent allegedly responded that she would call "any time she felt like". In the second call, Complainant requested account documentation, which the Respondent allegedly refused to provide. No response was received from the Respondent regarding this complaint.

Recommendation: Formal hearing with authority to settle by Consent Order and \$2,000 civil penalty.

Board: Concurs

6. Case No. L-07-CSB-RBS-200708969-1

Complainant alleges that Respondent, a first party credit and finance company is charging him a "predatory" interest rate on a credit account.

Recommendation: Dismiss

Board: Concurs

7. Case No. L-08-CSB-RBS-20078970-1

Complainant states that he was erroneously billed by Respondent, a first-party service provider, after he had cancelled service. Respondent's collection agent provided bill summaries in response to Complainant's complaint verifying the existence of a past due amount

Recommendation: Dismiss

Board: Concurs

8. Case No. L-07-CSB-RBS-200708705-1

Complainant states that Respondent, a first party card-issuing entity, continues to pursue efforts to collect an amount from him that allegedly resulted from identity theft.

Recommendation: Dismiss

Board: Concurs

9. Case No. L-08-CSB-RBS-200800106-1

Complainant states that Respondent made "illegal" attempts to collect a past due account from him. Respondent states that it received the wrong social security number for a person whose name was identical to Complainant's. Respondent states that it sent Respondent one notice of collection based upon the address provided by their skip tracing service provider. Respondent states that it never called Complainant or made any negative reports affecting Complainant's credit and has removed Complainant's address and telephone number from its records.

Recommendation: Dismiss

Board: Concurs

10. Case No. L-08-CSB-RBS-200800107-1

Complainant states that Respondent has been harassing her by phone and mail and trying to deceive her as to its identity during collection-related calls. Complainant also states that she is not receiving updated balance statements from Respondent reflecting a post-payment balance. Respondent states that Complainant is confused as to the identity of the Respondent, as the telephone numbers that she attributed to the Respondent do not belong to Respondent. Respondent states further that collection letters are being sent because Complainant has failed to honor a payment arrangement that was previously negotiated between the Complainant and Respondent with the assistance of a third-party credit counseling service.

Recommendation: Dismiss

Board: Concurs

11. Case No. L-08-CSB-RBS-200708962-1

Complainant states that Respondent made a collection-related telephone call to her after receiving a written request to cease and desist communication regarding the collection account, which the Complainant claims did not belong to her. Respondent confirmed that collection call did occur after the cease and desist request was received, but that the responsible individual has since been terminated.

Recommendation: Formal hearing with authority to settle by Consent Order and \$1,000 civil penalty.

Board: Reduce civil penalty to \$100.00 with Consent Order.

12. Case No. L-08-CSB-RBS-200800052-1

Complainant states that Respondent's agent spoke rudely to her and terminated a call with her after she requested verification on several collection accounts. Respondent provided account notes indicating the Complainant terminated the calls at issue and that all requested documentation was

provided. Respondent also states that it is has contacted Complainant and apologized for any ill-treatment that she may have received.

Recommendation: Close with a letter of warning re: abusive practices during collection calls.

Board: Concur

13. Case No. L-08-CSB-RBS-200708940-1

Complainant states that Respondent contacted him approximately twenty-nine (29) times between the months of June and October in an effort to locate a person that does not live at the Complainant's address. Complainant states that he informed Respondent that the party requested did not live at his address, but the calls continued. Respondent states that it recorded Complainant's telephone number as a "wrong number" in its files after receiving notice of the complaint.

Recommendation: Formal hearing with authority to settle by Consent Order and \$3,000 civil penalty.

Board: Concur

14. Case No. L-07-CSB-RBS-200707180

Complainant states that Respondent failed to provide documentation concerning the collection account and that Respondent communicated with third parties without his authorization. Respondent provided an account notes summary which reflected that documentation was mailed; however, the notes also indicate that the Respondent spoke at length and on multiple occasions with the Complainant's wife without the Complainant's prior express authorization.

Recommendation: Formal hearing with authority to settle by Consent Order and \$2,000 civil penalty.

Board: Conduct additional research and re-present at May board meeting.

15. Case No. L-07-CSB-RBS-200705442-1

Complainant asserts that Respondent is pursuing collection efforts relative to an account resulting from identity theft against Complainant by Complainant's son.

Recommendation: Dismiss

Board: Concur

16. Case No. L-08-CSB-RBS-200800216-1

Complainant asserts that Respondent made collection calls to her for over one year concerning a person that did not live at her address. Respondent asserts that it did not become aware that it was dialing the wrong phone number until it received notice of a complaint and has since removed the

phone number. Respondent also sent account notes for review, which indicated that the Respondent did not ever speak to Complainant.

Recommendation: Close with a STRONG letter of warning re: telephone harassment

Board: Concurs

17. Case No. L-08-CSB-RBS-200708973-1

Complainant asserts that she received a collection letter which was not addressed to her and wants information regarding potential identity theft. Respondent states that it removed Complainant's address from its records after being informed that the address information was incorrect and never made any collection efforts toward the Complainant aside from the misdirected letter.

Recommendation: Dismiss

Board: Concurs

18. Case No. L-08-CSB-RBS-200800077-1

Complainant disputes returned check service fee that Respondent assessed for a dishonored check that Complainant issued. Respondent has waived service fee after Complainant paid the dishonored amount by money order.

Recommendation: Dismiss

Board: Concurs

19. Case No. L-08-CSB-RBS-200800217-1

Complainant requests information concerning a disputed collection effort. Complainant states that he received a notice of collection from Respondent concerning an account that he has never had and does not owe. Complainant states that he has never had any contact with Respondent aside from the notice of collection that he received. Respondent states that it was provided Complainant's name and address as the responsible party, but that it has elected to close the account in light of the dispute.

Recommendation: Dismiss

Board: Concurs

20. Case No. L-07-CSB-RBS-200705099-1

Complainant states that he requested verification a debt and that Respondent failed to provide the requested information within the statutory time frame. Respondent provided records indicating that it had mailed a notice of collection to Respondent which contained verification information as well as all federally mandated disclosures to the Complainant's correct address almost two years prior to the Complainant's verification request.

Recommendation: Dismiss

Board: Concurs

21. Case No. L-08-CSB-RBS-200800320-1

Complainant alleges that Respondent erroneously obtained a judgment against him and then failed to correct records reporting the judgment, which allegedly resulted in monetary damage and loss of opportunity for the Complainant to obtain credit. Respondent admits that the judgment was taken after Complainant was a few days late in meeting a contractual obligation and that it did agree to have the judgment set aside once payment was received. Respondent states, however, that it did not order the report which adversely affected Complainant's credit standing and made reasonable efforts to correct any errors caused by their pursuit of a judgment.

Recommendation: Dismiss

Board: Concurs

22. Case No. L-08-CSB-RBS-200800291-1

Complainant alleges unwarranted collection efforts regarding an amount which was paid by secondary insurance coverage. Respondent states that when it received the account, master holder indicated that the account was due and owing and that it ceased collection efforts and notified the master holder once it received written notice of the Complainant's dispute. Respondent states that account balance has been satisfied and that account is no longer active.

Recommendation: Dismiss

Board: Concurs

23. Case No. L-08-CSB-RBS-200708941-1

Complainant alleges that he and his wife were verbally harassed by Respondent and that Respondent continued making collection calls after Complainant requested the collection efforts be limited to communication by mail. Respondent states that it is not possible that Complainant could have spoken with the individual that they identified and that litigation is currently in progress against the Complainant relative to the unpaid account.

Recommendation: Dismiss

Board: Concurs

24. Case No. L-07-CSB-RBS-200706668-1

Complainant alleges that Respondent was rude to her during collection calls. Respondent provided account notes wherein one of its agent informed the Complainant that it would "call [complainant] every day" until the account was satisfied. Respondent states that the offending agent has since been terminated.

Recommendation: Formal hearing with authority to settle by Consent Order and \$1,000 civil penalty.

Board: Reduce civil penalty to \$100.00 with Consent Order (include warning language about telephone harassment in the Order)

25. Case No. L-07-CSB-RBS-200708651-1

Complainant alleges that Respondent repeatedly violated a "cease communication" request when Respondent called her using phantom telephone numbers. In support of her allegation, Complainant provided a list of telephone numbers from which collection calls were allegedly being made. Each number provided belonged to an individual not affiliated with a collection service and two of the numbers were not in service. Respondent states that the numbers provided are not its business numbers and that it honored Complainant's request.

Recommendation: Dismiss

Board: Concurs

26. Case No. L-07-CSB-RBS-200708124-1

Complainant alleges that she continually receives mail from Respondent concerning a collection account belonging to an individual with a similar name. Complainant states also that she has contacted Respondent several times and has verified that the account was not hers, and was given assurances that the mailings would stop. Complainant states that the mailings had not ceased as of October, 2007. Respondent failed to reply to the complaint.

Recommendation: Formal hearing with authority to settle by Consent Order and \$1,000 civil penalty.

Board: Concurs

27. Case No. L-07-CSB-RBS-2007008801-1

Complainant, a third party, states that Respondent's agents contacted her at least twice and spoke rudely to her during a collection call concerning an account in her son's name. Respondent states that it would be willing to assist the responsible party if he would contact them directly.

Recommendation: Formal hearing with authority to settle by Consent Order and \$2,000 civil penalty.

Board: Concurs

28. Case No. L-07-CSB-RBS-200706642-1

Complainant states that Respondent used deceptive tactics in order to solicit location information concerning her daughter. Respondent states that it solely provides self-help repossession services and provides services only to secured parties who wish to obtain possession of collateral. A review of the company website confirms the Respondent's claim.

Recommendation: Dismiss

Board: Concurs

29. Case No. L-07-CSB-RBS-200705100-1

Complainant states that Respondent has engaged in unlicensed collection activity. Respondent states that she has ceased operating a collection business. Counsel for Respondent indicated Respondent's willingness to enter into a Consent Order with a smaller civil penalty.

Recommendation: Formal hearing with authority to settle by Consent Order and \$500.00 civil penalty.

Board: Concurs

30. Case No. L-07-CSB-RBS-200706380-1

Complainant, a third party, states that Respondent's representative threatened to have she and her mother arrested for failure to satisfy a collection account. Complainant further states that Respondent's representative accused them of fraudulent behavior and advised her that the police would be contacted. Respondent provided account notes indicating that the Complainant was advised to file a police report after informing Respondent that the collection account arose from fraudulent use of the debtor's identity.

Recommendation: Dismiss

Board: Concurs

31. Case No. L-07-CSB-RBS-200705826-1

Complainant alleges that Respondent bought and re-aged an old debt for credit reporting purposes in violation of the Fair Credit Reporting Act. Respondent states that it purchased the debt within the credit reporting limitations period, but that it has removed its tradelines from Complainant's credit report and reached a mutually agreed settlement of the debt with the Complainant.

Recommendation: Dismiss

Board: Concurs

32. Case No. L-07-CSB-RBS-200707814-1

Respondent, unlicensed, sent to Complainant a collection notice/demand for payment. Collection notice did not contain several of the federally required disclosures.

Recommendation: Formal hearing with authority to settle by Consent Order and \$2,000 civil penalty.

Board: Concurs

33. Case No. L-06-COS-RBS-200603738-1

Complainant alleges that Respondent advised him that a wage garnishment was pending relative to his failure to pay an outstanding debt that Respondent had been trying to collect. Respondent states that it did not make the alleged statements and provided account notes indicating that on the day of the alleged statements, Respondent's representative failed to generate account notes regarding the call wherein the garnishment statements were allegedly made.

Recommendation: Close with a stern letter of warning re: abusive collection practices; flag licensee for future compliance review.

Board: Concur

34. Case No. L-08-COS-RBS-200705986-1

Complainant alleges that Respondent solicited a postdated check from her and then advised her to request that her bank stop payment on the check and re-issue at a later date when she expressed concerns about the check being dishonored if sufficient funds were not available to pay the check at presentment. Respondent denies the allegations, stating that it advised Respondent that if she knew that sufficient funds would not be available at presentment, that she could contact Respondent and they would issue an internal order to "stop payment" on the check. Respondent provided account notes which indicated that Complainant may have believed that payment by postdated check would be illegal.

Recommendation: Close with a stern letter of warning re: solicitation of post-dated checks; flag licensee for future compliance review.

Board: Concur

35. Case No. L-08-COS-RBS-200708981-1

Complainant states that Respondent, a law firm with a collections division, wrongfully took legal action against her concerning an account upon which she was making payments as agreed.

Recommendation: Dismiss

Board: Concur

36. Case No. L-08-COS-RBS-200708248-1

Complainant, a third party, states that Respondent, who appears to be unlicensed, contacted her and requested that she deliver a message to a neighbor, which the Complainant refused to do. Complainant states that Respondent became argumentative when the request was refused and asked her "why she couldn't run across the street and give a message." Complainant states that she requested not to be contacted again. Complainant alleges that Respondent called again and spoke with her mother and made the same request. Respondent states that it has not contacted Complainant since receiving notice of the Complainant and that federal law does permit location-related third party contacts

Recommendation: Formal hearing with authority to settle by Consent Order and \$2,000 civil penalty.

Board: Concurs

37. Case No. L-08-COS-RBS-200708825-1

Complainant states that he received misdirected calls from Respondent for several months and continued to receive calls after notifying Respondent that he was not the responsible party. Respondent states that the calls resulted from inaccurate information and that the Complainant's information has been removed from its files.

Recommendation: Formal hearing with authority to settle by Consent Order and \$1,000 civil penalty.

Board: Concurs

MOTION was made by Elizabeth Trinkler and seconded by Worrick Robinson to concur with the recommendation as noted with Chairman Howard to recuse himself from Complaint number CSB-RBS-200705100-1.

MOTION CARRIED

Attorney Bond presented the Board with a request from an attorney for an exemption of the requirement to have a location manager license. She had received an email from the previous attorney stating she did not have to be licensed as a location manager due to her being an attorney.

Attorney Bond also presented an Attorney General's opinion that was dated June 8, 2000 stating the attorney exemption to the requirements of the Collection Service Act is only applicable to those attorneys who seek to collect the debts owing to their clients who have retained them for their services as attorneys. Attorneys who own or work for a collection service agency have a distinct identity from that agency, and their mere connection to the agency does not relieve that agency of the requirement specified in the Collection Service Act.

MOTION was made by Worrick Robinson and seconded by Elizabeth Trinkler to approve a waiver of the 90 day requirement so the attorney may sit for the location manager examination on May 16, 2008.

MOTION CARRIED

ADMINISTRATIVE ISSUES---INTERIM ADMINISTRATIVE DIRECTOR

Interim Director Hancock presented the Board with the open complaint report. She stated the Collection Service Board has 81 open complaints, The Board has received 81 complaints and 41 of those complaints are over 180 days old.

The next item presented was a request from an exemption from an "R Systems International Private Limited", pursuant to T.C.A. §62-20-103. The request stated that "R Systems International Private Limited" is not within the purview of T.C.A. §62-20-101.

MOTION was made by Worrick Robinson and seconded by Elizabeth Trinkler to advise this agency they must be licensed as a collection agency in Tennessee, with a Tennessee licensed location manager, in order to do business in Tennessee.

MOTION CARRIED

Interim Director Hancock presented a request to substitute a college diploma in place of the high school diploma from applicant Terrance Clark. He stated he has been unsuccessful in getting cooperation from the high school and college in obtaining his high school or college transcripts. Ms. Hancock asked the Board to give a policy in order to meet the requirement of T.C.A. §62-20-108 by submitting a college diploma in lieu of the high school diploma or G.E.D.

Worrick Robinson stated he was concerned because a person can go online and get a college diploma. He then asked to table the issue for thirty (30) days to look for specific language pertaining to receiving the college diploma at an accredited college or university. Rather than have him wait four (4) more months, Ms. Hancock asked the Board if they would make a determination today on the above applicant. The decision of the Board was that if this applicant can present a copy of the College transcript and the rest of his application meets the requirements, then he can be approved to sit for the May 16, 2008 Tennessee Location Manager Examination. A policy on the diploma issue was deferred until the May 6, 2008 meeting so the Attorney can draft pertinent language.

Policy # 207-CSB-001 an open application policy was presented. This policy was never signed by the Chairman or the Administrative Director. Attorney Bond stated there was some concern about the diligent effort on the applicant's part. He stated there should be some language on what the Board would accept as a diligent effort. The consensus of the Board was to defer this policy also to the May 6, 2008 meeting so the Attorney can draft the language.

Policy # 2007-CSB-002 "Director's Discretion in Opening Complaints" was presented by the Interim Director. She asked that this policy be omitted or rescinded due to the Regulatory Board Administration having Standard Operating Procedures for Complaints. The consensus of the Board was to leave the policy in place. Ms. Hancock stated that the policy contradicts Administration's policy. Worrick Robinson asked that this policy also be tabled until the May 6, 2008 meeting and asked Ms. Hancock and Attorney to discuss this policy with the Administrative office.

The next item presented was the Conflict of Interest form. Interim Director Hancock stated that the Administration Division requested that each Board member complete this form each year. She asked the Board members to read the form and sign it and give back to staff.

A discussion was held on the financial statement the agency must submit with their original or renewal application. The previous Assistant Commissioner had written a letter to the then Chairman of the Collection Service Board dated February 26, 2004. In that letter the Assistant Commissioner stated the Board should no longer distribute the financial report form and should not reject applications and renewals from applicants and licensees that are not submitted on this form. Ms. Hancock stated in the Laws of the Collection Service Board a requirement is that the collection agency submit this form completed by a CPA. Also this letter addressed an issue regarding the

new applications and renewal applications of a collection agency and location manager that said the application review should be treated as an administrative function. If there is a problem with a particular applicant or applicant that cannot be handled administratively, these applications are reviewed by the Board. Therefore this explains the next items up for review.

REVIEW OF APPLICATIONS

Interim Director Hancock presented the following applications for approval. Upon her review, she found that these applicants raised concerns as to qualifying for the license, especially in regards to their credit reports. Chairman Howard stated if he sees a credit report that has had collection activity that is old then he tends to approve them. If it is recent, then the application needs to be rejected. Applicants for review are: Georganna Mazzia, Devin John Urbanowski, Travis Wayne Williams Manju Sahni and Victor Diaz.

MOTION was made by Worrick Robinson and seconded by Elizabeth Trinkler to approve all applications as submitted.

MOTION CARRIED

OLD BUSINESS

There was no Old Business to discuss.

NEW BUSINESS

Chairman Howard led a discussion pertaining to the Attorney General's opinion 97-131 regarding T.C.A. §62-20-102 pertaining to the requirement of a debt purchaser must be licensed in the State of Tennessee as a collection agency. He stated his attorney had given him some information that the Attorney General may have made an error in their opinion of T.C.A. §62-20-102 of debt purchasers having to be licensed.

Attorney Bond stated he would like some time to research this before the request is made for a reconsideration of this opinion.

Chairman Howard stated that would be fine and Attorney Bond may give a report at the May 6, 2008.

MOTION was made by Elizabeth Trinkler and seconded by Worrick Robinson to adjourn.

MOTION CARRIED. Meeting Adjourned.

Bart Howard, Chairman

Ann Strong

Elizabeth Trinkler, Vice Chairman

Worrick Robinson

Harold Nichols